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MEMORANDUM



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Arizona Corporation Commission

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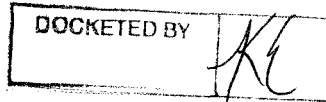
TO: THE COMMISSION

NOV 24 2015

FROM: Utilities Division

AZ CORP COMMISSION  
DOCKET CONTROL

DATE: November 24, 2015



RE: IN THE MATTER OF THE APPLICATION OF AMERICAN BROADBAND AND TELECOMMUNICATIONS COMPANY FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER FOR THE SOLE PURPOSE OF RECEIVING FEDERAL UNIVERSAL LIFELINE SUPPORT IN SPECIFIED GEOGRAPHIC AREAS (DOCKET NO. T-20924A-15-0068)

1. PROCEDURAL HISTORY

On March 2, 2015, American Broadband and Telecommunications Company ("ABATC" or "Company") filed an Application requesting limited designation as an Eligible Telecommunications Carrier ("ETC") pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the "Act") and implementing rules of the Federal Communications Commission ("FCC"), including 47 C.F.R. §§ 54.101 through 54.207.

In its Application, ABATC requests that the Arizona Corporation Commission ("ACC" or "Commission") designate it as a wireless ETC for the sole purpose of receiving Federal Universal Service Fund ("FUSF") Lifeline<sup>1</sup> support so that it may provide Lifeline service to qualifying Arizona consumers. ABATC is not requesting high cost support, participation in the Link-Up program or support from the Arizona Universal Services Fund.

On March 9, 2015, the Arizona Local Exchange Carriers Association ("ALECA") filed a motion to intervene.

On March 16, 2015, ABATC and ALECA filed a Stipulation concerning ABATC's Application.

On March 24, 2015, a Procedural Order granted ALECA's request for intervention in this proceeding.

On May 5, 2015, ABATC filed an amended Exhibit B in the docket at the request of Staff.

<sup>1</sup> Federal Lifeline Assistance provides discounts on basic monthly service at the primary residence for qualified telephone subscribers. The federal support amount provided to the ETC is \$9.25.

## 2. BACKGROUND

ABATC is a Delaware Corporation, incorporated on July 30, 2007,<sup>2</sup> with its principal offices located at One Seagate, Toledo, Ohio 43604. ABATC proposes to provide wireless Lifeline services through the resale of Commercial Mobile Radio Service ("CMRS") provided by T-Mobile USA ("T-Mobile") and SprintCom Wireless and Nextel West Corp. (jointly "Sprint").<sup>3</sup> ABATC currently serves over 280,000 wireless customers nationwide,<sup>4</sup> of which approximately 262,000 are Lifeline customers and has been granted ETC designation in seventeen (17) other jurisdictions.<sup>5</sup> ABATC currently has petitions for ETC designation pending in six (6) jurisdictions<sup>6</sup> in addition to Arizona and is also awaiting designation as an ETC by the FCC in ten (10) jurisdictions<sup>7</sup>. For its proposed designated service area, ABATC filed a list of wire centers in which it will provide service in amended Exhibit B on May 15, 2015.

On February 6, 2012, the FCC released an Order in FCC 12-11, *Lifeline and Link Up Reform and Modernization* ("Lifeline Reform Order"),<sup>8</sup> in which the FCC adopted comprehensive reforms to the low-income program to revise and modernize the Lifeline service requirements and implement measures to address fraud, waste and abuse of the FUSF. Within that Order, the FCC found that a grant of blanket forbearance of the requirement that an ETC use its own facilities ("the own-facilities requirement") subject to certain public safety and compliance obligations, was appropriate for carriers seeking to provide Lifeline-only service.<sup>9</sup> Specifically, in the *Lifeline Reform Order*, the FCC states it will conditionally grant forbearance from the Act's Section 214(e)(1)(A) facilities requirement to all telecommunications carriers seeking Lifeline-only ETC designation, subject to the following conditions: (1) compliance with certain 911 and enhanced 911 (E911) public safety requirements and (2) FCC Wireline Competition Bureau approval of a compliance plan providing specific information regarding the carrier and its service offerings and outlining the measures the carrier will take to implement the obligations contained in the *Order*.<sup>10</sup>

On June 30, 2011, ABATC filed its initial draft Compliance Plan outlining its proposed compliance with the usual FCC conditions for ETCs. The FCC sought comment on the Plan and ABATC subsequently filed an updated draft Plan on December 2, 2011. ABATC submitted its

<sup>2</sup> Response to Staff Data Request STF 1.11.

<sup>3</sup> See Application, Page 3 - ABATC will purchase the services of Sprint and T-Mobile through an intermediary such as Prepaid Wireless Group.

<sup>4</sup> ABATC's Amended Response to Staff Data Request STF 1.21, dated October 6, 2015.

<sup>5</sup> See updated response to Staff Data Request STF 1.1 dated November 4, 2015: Colorado, Hawaii, Illinois, Indiana, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nevada, Ohio, Puerto Rico, Rhode Island, South Carolina, Utah, West Virginia and Wisconsin.

<sup>6</sup> See updated response to Staff Data Request STF 1.1 dated November 4, 2015: Arkansas, California, Georgia, Louisiana, Massachusetts and Pennsylvania.

<sup>7</sup> See updated response to Staff's First Set of Data Requests to STF 1.1 dated November 4, 2015: Connecticut, Delaware, District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, Texas and Virginia.

<sup>8</sup> *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 11-42, FCC 12-11, released February 6, 2012 ("Lifeline Reform Order").

<sup>9</sup> *Ibid.*, at paras. 368-381.

<sup>10</sup> See *id.* at paras. 373 and 389. Subsequently, the Bureau provided guidance for carriers submitting compliance plans pursuant to the *Lifeline Reform Order*. *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, WC Docket Nos. 09-197 and 11-42, Public Notice, 27 FCC Rcd 2186 (Wireline Comp. Bur. 2012).

initial Compliance Plan to the FCC in order to benefit from the "blanket forbearance" of the own-facilities requirement used to provide Lifeline services. ABATC submitted its Revised Compliance Plan ("RCP") on March 13, 2012, making changes pursuant to the *Lifeline Reform Order* in order to benefit from the "blanket forbearance" of the own-facilities requirement used to provide Lifeline services. On April 27, 2012, ABATC filed its final RCP with the FCC, having made several minor revisions to the March 13, 2012 filing. On May 25, 2012, the FCC issued a Public Notice<sup>11</sup> approving ABATC's April 27, 2012 RCP.

### 3. REQUIREMENTS FOR DESIGNATION AS AN ETC AND ABATC'S COMPLIANCE WITH THE REQUIREMENTS

Designation as an ETC makes a carrier eligible to receive federal universal service funds. The requirements for designation of ETCs are established in 47 U.S.C. § 214(e)(1), which states:

"A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall throughout the service area for which the designation is received: (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and (B) advertise the availability of such services and the corresponding charges using media of general distribution."

In order to be designated as an ETC, a carrier must offer Lifeline service to all qualifying low-income customers within its service area.<sup>12</sup> Lifeline service provides basic telephone service, typically by passing on discounts to monthly telecommunications charges. As a wireless reseller of prepaid wireless service, ABATC is proposing to offer qualified customers a free handset, free customer care calls, free balance inquiries, access to voice mail, caller I.D. and call waiting features at no additional charge, plus the choice of two (2) Lifeline plans or four (4) different prepaid calling plans available to non-Lifeline customers.<sup>13</sup> ABATC also proposes to offer customers the capability of purchasing additional voice minutes and/or text messages.<sup>14</sup>

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<sup>11</sup> See "Wireline Competition Bureau Approves the Compliance Plans of American Broadband & Telecommunications, Budget Prepay, Consumer Cellular, Global Connection, TerraCom and Total Call Mobile", Public Notice from FCC Wireline Competition Bureau, WC Docket Nos. 09-197 and 11-42 (rel. May 25, 2012).

<sup>12</sup> 47 C.F.R. §§ 54.405 and 54.411(a)

<sup>13</sup> See Application, Pages 8 -9 and Response to Staff Data Request STF 1.43. Plan Option 1 offers 250 voice minutes and 250 text messages per month at no charge to the Lifeline customer. Plan Option 2 offers 500 voice minutes and 500 text message for \$10.70 per month to Lifeline customers. In addition, Lifeline eligible customers are allowed to apply the Company's Lifeline discount of \$9.25 to any of the following plans offered to non-Lifeline customers: a 30-day plan of Unlimited Voice/Text and 1 GB Data regularly priced at \$49.95, a 30-day plan of 1500 voice minutes and 1500 text messages regularly priced at \$29.95, a 30-day of 250 voice minutes and 1000 text messages regularly priced at \$19.95 or a 30-day plan of 4000 combined voice minutes and text messages regularly priced at \$34.25.

<sup>14</sup> See Application, Pages 9-10.

As indicated above, the FCC granted ABATC forbearance from the own-facilities requirement that it provide service using its own facilities or a combination of its own facilities and resale of another carrier's service and also any criteria related to facilities build out plans. ABATC would be a Lifeline-only ETC, eligible only for Lifeline support and must meet all the other criteria required of ETCs.

*A. Offering the Services Designated For Support*

47 C.F.R. § 54.101, sets forth the services that a carrier must offer in order to receive Federal Universal Service Fund support. The services and ABATC's response to the provision of each service are as follows:

- (1) Voice grade access to the Public Switched Network. ABATC states<sup>15</sup> that it provides voice grade access to the public switched telephone network through the purchase of wholesale CMRS services from T-Mobile USA, and Sprint.
- (2) Local usage. ABATC states<sup>16</sup> it will provide Lifeline customers with minutes of use for local service at no additional charge to customers, as required by the FCC.
- (3) Access to emergency services. "An ETC must provide its customers with access to 911 and E911 emergency services. ABATC states<sup>17</sup> that all of its customers will have access to emergency calling services and that 911 and E911 access will be available from ABATC's handsets even if the account associated with the handset has no minutes remaining.
- (4) Toll Limitation for Qualifying Low-Income Consumers. "ETCs must provide toll limitation services to qualifying low-income customers, unless their Lifeline offering does not distinguish between the pricing of toll and non-toll calls. ABATC's wireless calling plans do not distinguish between non-toll (i.e., local) and toll. ABATC's prepaid plans include a specific number of minutes that cannot be exceeded. Therefore, customers cannot incur any charges for excessive toll calling or be disconnected for non-payment.

In its Application, ABATC states<sup>18</sup> that it has the ability to provide all of the supported services and functionalities required in the proposed ETC designated service area to all subscribers taking service under its Lifeline plan through resale of wireless services with its underlying wireless carriers. Based on the above information and explanations, Staff believes that ABATC meets this ETC designation criteria.

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<sup>15</sup> Application, Pages 7 and email clarification dated November 12, 2015.

<sup>16</sup> Application, Pages 7-10 and email clarification dated November 12, 2015.

<sup>17</sup> Application, Pages 10-11.

<sup>18</sup> Application, Pages 6-7.

*B. Advertising of Supported Services*

47 U.S.C. § 214(e)(1)(B) requires a common carrier designated as an eligible telecommunications carrier to advertise the availability of such services and the corresponding charges using media of general distribution. ABATC states<sup>19</sup> it will advertise the availability of its supported services and the corresponding rates and charges in a manner designed to inform the general public. ABATC advertises in media of general distribution, which includes print, media, web, and kiosks and advertising will occur principally through direct sales, kiosk and table cover marketing campaigns, and web lead generation, with ad words directing potential customers to ABATC's American Assistance website media channels.<sup>20</sup> Advertisements will be in both English and Spanish. ABATC submitted examples of prior relevant advertisements to Staff. In addition, ABATC submitted an example of its English version advertisement in its RCP to the FCC.<sup>21</sup>

Based on the information above and ABATC's advertising materials provided to Staff, Staff concludes that ABATC will advertise the availability of its supported services and the corresponding charges using media of general distribution as required by 47 U.S.C. § 214(e)(1)(B). Staff believes that ABATC meets this ETC designation criteria.

*C. Additional ETC Requirements*

In addition to the requirements listed above, the FCC adopted, in the *Lifeline Reform Order*, comprehensive reforms to the low-income program to revise and modernize the Lifeline service requirements and implement measures to address fraud, waste, and abuse within the system. Below are the additional requirements and ABATC's response to each requirement.

C.1 A Commitment and Ability to Provide Supported Services

In 47 C.F.R. § 54.202(a)(1)(i) and (ii), the FCC required the applicant to:

(i) Certify that it will comply with the service requirements applicable to the support that it receives; and

(ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Except, a common carrier seeking designation as an eligible telecommunications carrier in order to provide supported services only under subpart E of this part does not need to submit such a five-year plan.<sup>22</sup>

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<sup>19</sup> Application, Page 12.

<sup>20</sup> Response to Staff Data Request STF 1.32, 1.33 and 1.34.

<sup>21</sup> See Exhibit C of RCP filed with Application.

<sup>22</sup> *Lifeline Reform Order*, ¶ 386.

ABATC certifies<sup>23</sup> that it will comply with the service requirements applicable to the low-income support it receives as a result of designation as an ETC for the purposes of receiving Lifeline. The requirement directing submissions of a formal network improvement plan under 47 C.F.R. § 54.202(a)(1)(ii) demonstrating how universal service funds will be used to improve coverage, signal strength, or capacity that would not otherwise occur absent the receipt of high-cost support, does not apply to this Application because ABATC is seeking only to provide supported services under subpart E of this part, i.e. Lifeline only, and the FCC waived the facilities-based requirements for ABATC.

Based on the above information, Staff believes that ABATC meets this ETC designation criteria.

## C.2 Remain Functional in Emergency Situations

In 47 C.F.R. § 54.202(a)(2), the FCC outlines the requirement that an ETC applicant demonstrate its ability to remain functional in emergency situations. Specifically, “an applicant must demonstrate that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.”<sup>24</sup>

To demonstrate its ability to remain functional in emergency situations, ABATC states<sup>25</sup> it will utilize the extensive and well established Sprint and T-Mobile networks and facilities to provide ABATC’s mobile services and it is ABATC’s understanding that the Sprint and T-Mobile networks are capable of managing traffic spikes that may occur during emergency situations and can reroute traffic in the event of damaged facilities. In addition, ABATC also understands that each carrier has sufficient back-up power to ensure functionality if its external power supply is unavailable and that both companies have repeatedly certified to the FCC that their networks function in emergency situations.<sup>26</sup> Sprint and T-Mobile will provide the same functionality to ABATC and its customers as these carriers provide to themselves and their own customers. Therefore, through its underlying carriers, ABATC states it has the ability to remain functional in emergency situations.

Based on the above information, Staff concludes that ABATC has demonstrated its ability to remain functional in emergency situations by maintaining a reasonable amount of back-up power. Staff believes that ABATC meets this ETC designation criteria.

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<sup>23</sup> See Application, Page 13.

<sup>24</sup> *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 05-46* (rel. March 17, 2005) (“ETC Minimum Requirements Report and Order”), ¶ 25.

<sup>25</sup> Application, Page 13.

<sup>26</sup> See, e.g., *Sprint Nextel Corporation Verified Filing in Compliance with 47 C.F.R. § 54.209*, CC Docket No. 96-45, at 6 (filed Sept. 30, 2011); *In the Matter of Telecommunications Carriers Eligible for Universal Service Support, Petition of T-Mobile USA, Inc. for Designation as a Low-Income Eligible Telecommunications Carrier, et al.*, WC Docket No. 09-197, at 20 (released Aug. 16, 2012).

C.3 Satisfy Consumer Protection and Service Quality Standards

In 47 C.F.R. § 54.202(a)(3), the FCC requires an ETC applicant to demonstrate its commitment to meeting consumer protection and service quality standards in its application.<sup>27</sup> The sufficiency of other commitments will be considered on a case-by-case basis.

To demonstrate its ability to satisfy consumer protection and service quality standards, ABATC states<sup>28</sup> it commits to comply with the Wireless Association's, originally known as the Cellular Telephone Industries Association's ("CTIA's") Consumer Code to ensure that the Company offers its subscribers the highest level of protection and quality service.

Based on the above information, Staff believes that ABATC meets this ETC designation criteria.

C.4 Lifeline-Only ETC Applicants – Financial and Technical Capability

In 47 C.F.R. § 54.202(a)(4), the FCC requires a Lifeline-only ETC applicant to demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E of this part. In the *Lifeline Reform Order*<sup>29</sup> the FCC provides guidance on specific information to be considered when determining if an applicant meets this requirement:

"...Among the relevant considerations for such a showing would be whether the applicant previously offered services to non-Lifeline customers, how long its has been in business, whether the applicant intends to rely exclusively on USF distributions to operate, whether the applicant receives or will receive revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state."

To demonstrate that ABATC is financially and technically capable of providing Lifeline service, ABATC states<sup>30</sup> its management has more than 50 years of experience in the telecommunications industry and it receives revenue from a number of sources which are completely independent from the revenue it will receive in the form of Lifeline reimbursements. ABATC further states its revenue stream includes income from the sale of non-lifeline prepaid and postpaid telecommunications services to customers in Illinois, Indiana, Kentucky, Michigan, Ohio, New York, Pennsylvania and Wisconsin. In addition, ABATC states it has provided non-Lifeline prepaid domestic telecommunications since 2004 and has a substantial non-Lifeline customer base and receives revenues from these non-Lifeline retail offerings. Consequently, ABATC states it will not be relying exclusively on Lifeline reimbursement for its operating revenues. Finally, ABATC states it has not been subject to ETC enforcement sanctions or revocation proceedings in any state.

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<sup>27</sup> ETC Minimum Requirements Report and Order, ¶ 28.

<sup>28</sup> Application, Page 14.

<sup>29</sup> See *Lifeline Reform Order*, ¶388.

<sup>30</sup> See Application, Pages 14-15, RCP, Pages 18-19 and Response to Staff Data Request STF 1.10.

Having reviewed ABATC's financial statements and based on the above information, Staff believes that ABATC meets this ETC designation criteria.

C.5 Lifeline-Only ETC Applicants – Terms and Conditions of Lifeline Service Plans

In 47 C.F.R. § 54.202(a)(5), the FCC requires an ETC applicant to submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the ETC offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public website outlining the terms and conditions of such plans.

ABATC provided Staff with its informational tariff<sup>31</sup> in which it describes the calling plans for Lifeline subscribers, including the number of free minutes in each calling plan, along with the terms and conditions of Lifeline service as provided by ABATC. Based on the information contained in ABATC's informational tariff, Staff believes that ABATC meets this ETC designation criteria.

D. *Steps to Limit Fraud, Waste and Abuse of the FUSF*

In the *Lifeline Reform Order* the FCC adopted various new measures and revised or eliminated other existing measures in order to limit fraud, waste and abuse of the FUSF. These measures include establishing uniform eligibility criteria to qualify for Lifeline services, clarifying the restriction of one Lifeline telephone allowed per household, initial certification and annual re-certification of consumer eligibility, establishing a national lifeline accountability database to ensure and enforce the one-per-household requirement, total elimination of toll limitation support for wireless carriers and a tapered elimination of toll limitation support for landline ETCs, elimination of the Link Up subsidy except on federally-recognized tribal lands and establishing additional provisions for Universal Service Administrative Company ("USAC") audits.

In its Application<sup>32</sup> and RCP, ABATC outlines the steps it will take to limit fraud, waste and abuse of the FUSF and to comply with all applicable Lifeline requirements and implement measures to prevent fraud, waste, and abuse.

E. *Public Interest Determination*

Under Section 214 of the Act, the FCC and state commissions must determine that an ETC designation is consistent with the public interest, convenience and necessity for rural areas. They also must consider whether an ETC designation serves the public interest consistent with Section 254 of the Act. Congress did not establish specific criteria to be applied under the public interest tests in Sections 214 or 254. The public interest benefits of a particular ETC designation must be analyzed in a manner that is consistent with the purposes of the Act itself, including the fundamental

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<sup>31</sup> Response to Staff Data Request STF 1.43.

<sup>32</sup> See Application, Pages 15-16.



goals of preserving and advancing universal service, ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates, and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas.<sup>33</sup> Accordingly, before designating a carrier as an ETC, the Commission must make an affirmative determination that such designation is in the public interest, regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier.

ABATC states that by designating it as a wireless ETC in Arizona, it will serve the public interest and the needs of low-income customers in Arizona by increasing customer choice in the areas it serves. The public interest benefits associated with ABATC's wireless service include larger local calling areas (as compared to traditional wireline carriers), the convenience and personal security afforded by mobile telephone service, the opportunity for customers to receive a high-value wireless plan and emergency services in accordance with FCC Rules. Additionally, ETC status will promote universal service by allowing ABATC to offer wireless service to many low-income customers who may not be able to otherwise have service. ABATC's Lifeline calling plans are designed to provide service to Lifeline consumers who, due to credit or deposit requirements, may not be able to obtain telephone service from more traditional wireline and wireless service providers.

F. *Designated Service Area*

The Commission must establish a geographic area for the purpose of determining universal service obligations and support mechanisms for each designated ETC. *See* 47 U.S.C. § 214(e)(2); 47 C.F.R. § 54.201(b). ABATC requests that the Commission designate it as an ETC for service areas in Arizona. Through resale of wireless service provided by T-Mobile and Sprint in Arizona, ABATC will provide Lifeline service in many wire centers in the State of Arizona.

There are a number of wire centers that encompass both tribal lands and non-tribal lands. Some of the tribal lands are served by tribally-owned telephone companies and some of the tribal lands are served by non-tribally owned telephone companies. For those wire centers that encompass tribal lands, ABATC requested to serve the non-tribal areas of each wire center and to serve tribal lands within the service areas of Commission regulated telephone companies and cooperatives only after receiving any and all necessary licenses or other forms of approval that might be required by any Tribe and filing a copy of such licenses or other form of approval with the Commission, with a copy to ALECA's undersigned counsel. Attachment 1 of the Recommended Opinion and Order contains the list of wire centers to be served by ABATC.

4. **INTERVENOR**

A. *Arizona Local Exchange Carriers Association*

ALECA is an association of telephone companies and member-owned cooperatives providing local exchange telecommunications services to customers in rural, high cost areas of Arizona. All of ALECA's members are "rural telephone companies" as defined by the Act.

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<sup>33</sup> ETC Minimum Requirements Report and Order, ¶ 40.

ALECA represents telephone companies and cooperatives that are regulated by the Commission as well as Tribally-owned telephone companies which are not regulated by the Commission.

*B. Joint Stipulation*

On March 16, 2015, ALECA and ABATC filed a Stipulation in the docket. In the Stipulation, to address the potential concerns expressed by ALECA, ABATC agreed not to provide Lifeline service to eligible residents residing on Federally-recognized Tribal Lands in Arizona until ABATC obtained any and all necessary licenses or other forms of approval that might be required by any Tribe and file a copy of such licenses or other form of approval with the Commission in this docket and a copy to ALECA's counsel. In addition, ABATC agreed that its Lifeline enrollment application for Arizona will require an applicant to provide a street address and include a provision that requires an applicant to self-certify under penalty of perjury that they do not reside on Federally-Recognized Tribal Lands or to identify the Federally-Recognized Tribe on the lands of which he or she resides.

Staff understands that the only Federally-Recognized Tribal Lands that are included in the Joint Stipulation are those served by Commission-regulated telephone companies and cooperatives and for which ABATC has obtained any and all necessary licenses or other forms of approval that might be required by any Tribe.<sup>34</sup>

**5. STAFF RECOMMENDATIONS**

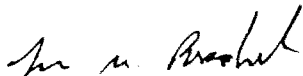
In addition to the conditions set forth by the FCC, Staff recommends ABATC's Application for designation as an ETC be granted subject to the following conditions:

- a. ABATC shall file a tariff, in this docket through Docket Control, setting forth the rates, terms and conditions for its Lifeline service within thirty (30) days of a Commission Order in this matter;
- b. ABATC shall notify the Commission of any future changes, through Docket Control, to its rates, terms and/or conditions regarding its Lifeline offerings and file such changes in its tariff and amend its tariff in compliance with A.R.S. § 40-367;
- c. ABATC shall make available Lifeline services to qualifying low-income applicants in its ETC service area no later than ninety (90) days after a Commission decision in this matter and shall concurrently notify the Commission, by making a filing in Docket Control, in this docket, of the commencement date for such services;
- d. ABATC shall apprise the Commission of any customer complaints that may arise from its ETC service offerings by making a filing in Docket Control in this docket;

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<sup>34</sup> In order to provide Lifeline services on Federally-Recognized Tribal Lands served by Tribally-owned telephone companies, ABATC would need to petition the FCC for ETC designation in order to receive FUSF reimbursement.

- e. ABATC shall provide a regulatory contact to the Commission by making a filing in Docket Control in this docket within thirty (30) days of a Commission decision in this matter;
- f. In the event that ABATC requests to relinquish its ETC status and no longer provide Lifeline services, it must provide notice to both the Commission and its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107 and any other requirements under Federal law;
- g. ABATC shall submit in Docket Control an annual report by April 15th of each year, beginning April 15, 2014, that contains its total number of Lifeline subscribers and the total amount of Federal USF support received as of December 31 of the previous year and include an affidavit stating that the Lifeline discounts or the equivalent are equal to the amount of total Federal USF support received per line. The annual filing shall be submitted as a compliance item in this docket;
- h. In the event of a Transfer of Control that involves ABATC, a new ETC petition shall be filed with the Commission. This will ensure ETCs undergoing reorganization remain financially viable and technically able to provide the supported services throughout the designated service areas as originally approved by the Commission;
- i. ABATC shall not expand its Lifeline service beyond the designated service area specified in this Application without acquiring ETC designation from the Commission to serve the additional area; and
- j. ABATC shall not provide Lifeline service to eligible residents residing on Federally-Recognized Tribal Lands in Arizona, served by Commission regulated telephone companies and cooperatives, until after ABATC has obtained any and all necessary licenses or other forms of approval that might be required by any Tribe and filed a copy of such licenses or other form of approval with the Commission in this docket, with a copy to ALECA's counsel.



Thomas M. Broderick  
Director  
Utilities Division

TMR:LLM:red\MAS

ORIGINATOR: Lori L Morrison

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

SUSAN BITTER SMITH  
Chairman  
BOB STUMP  
Commissioner  
BOB BURNS  
Commissioner  
DOUG LITTLE  
Commissioner  
TOM FORESE  
Commissioner

IN THE MATTER OF THE APPLICATION )  
OF AMERICAN BROADBAND AND )  
TELECOMMUNICATIONS COMPANY )  
FOR DESIGNATION AS AN ELIGIBLE )  
TELECOMMUNICATIONS CARRIER FOR )  
THE SOLE PURPOSE OF RECEIVING )  
FEDERAL UNIVERSAL LIFELINE )  
SUPPORT IN SPECIFIED GEOGRAPHIC )  
AREAS. )

DOCKET NO. T-20924A-15-0068  
DECISION NO. \_\_\_\_\_  
ORDER

Open Meeting  
December 8 and 9, 2015  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On March 2, 2015, American Broadband and Telecommunications Company (“ABATC” or “Company”) filed an Application requesting limited designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (“Act”) and implementing rules of the Federal Communications Commission (“FCC”), including 47 C.F.R. §§ 54.101 through 54.207.
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1 Arizona consumers. ABATC is not requesting high cost support, participation in the Link-Up  
2 program or support from the Arizona Universal Services Fund.

3 3. On March 9, 2015, the Arizona Local Exchange Carriers Association ("ALECA") filed  
4 a motion to intervene.

5 4. On March 16, 2015, ABATC and ALECA filed a Stipulation concerning ABATC's  
6 Application.

7 5. On March 24, 2015, a Procedural Order granted ALECA's request for intervention in  
8 this proceeding.

9 6. On May 5, 2015, ABATC filed an amended Exhibit B in the docket at the request of  
10 Staff.

### 11 **BACKGROUND**

12 7. ABATC is a Delaware Corporation, incorporated on July 30, 2007,<sup>2</sup> with its principal  
13 offices located at One Seagate, Toledo, Ohio 43604. ABATC proposes to provide wireless Lifeline  
14 services through the resale of Commercial Mobile Radio Service ("CMRS") provided by T-Mobile  
15 USA ("T-Mobile") and SprintCom Wireless and Nextel West Corp. (jointly "Sprint").<sup>3</sup> ABATC  
16 currently serves over 280,000 wireless customers nationwide,<sup>4</sup> of which approximately 262,000 are  
17 Lifeline customers and has been granted ETC designation in seventeen (17) other jurisdictions<sup>5</sup>.  
18 ABATC currently has petitions for ETC designation pending in six (6) jurisdictions<sup>6</sup> in addition to  
19 Arizona and is also awaiting designation as an ETC by the FCC in ten (10) jurisdictions<sup>7</sup>. For its  
20 proposed designated service area, ABATC filed a list of wire centers in which it will provide service in  
21 amended Exhibit B on May 15, 2015.

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22  
23 <sup>2</sup> Response to Staff Data Request STF 1.11.

24 <sup>3</sup> See Application, Page 3 - ABATC will purchase the services of Sprint and T-Mobile through an intermediary such as  
Prepaid Wireless Group.

25 <sup>4</sup> ABATC's Amended Response to Staff Data Request STF 1.21, dated October 6, 2015.

26 <sup>5</sup> See updated response to Staff Data Request STF 1.1 dated November 4, 2015: Colorado, Hawaii, Illinois, Indiana,  
Kentucky, Maryland, Michigan, Minnesota, Missouri, Nevada, Ohio, Puerto Rico, Rhode Island, South Carolina, Utah,  
West Virginia and Wisconsin.

27 <sup>6</sup> See updated response to Staff Data Request STF 1.1 dated November 4, 2015: Arkansas, California, Georgia, Louisiana,  
Massachusetts and Pennsylvania.

28 <sup>7</sup> See updated response to Staff's First Set of Data Requests to STF 1.1 dated November 4, 2015: Connecticut, Delaware,  
District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, Texas and Virginia.

1           8.       On February 6, 2012, the FCC released an Order in FCC 12-11, *Lifeline and Link Up*  
2 *Reform and Modernization* (“*Lifeline Reform Order*”),<sup>8</sup> in which the FCC adopted comprehensive reforms to  
3 the low-income program to revise and modernize the Lifeline service requirements and implement  
4 measures to address fraud, waste and abuse of the FUSF. Within that Order, the FCC found that a  
5 grant of blanket forbearance of the requirement that an ETC use its own facilities (“the own-facilities  
6 requirement”) subject to certain public safety and compliance obligations, was appropriate for carriers  
7 seeking to provide Lifeline-only service.<sup>9</sup> Specifically, in the *Lifeline Reform Order*, the FCC states it will  
8 conditionally grant forbearance from the Act’s Section 214(e)(1)(A) facilities requirement to all  
9 telecommunications carriers seeking Lifeline-only ETC designation, subject to the following  
10 conditions: (1) compliance with certain 911 and enhanced 911 (E911) public safety requirements; and  
11 (2) FCC Wireline Competition Bureau approval of a compliance plan providing specific information  
12 regarding the carrier and its service offerings and outlining the measures the carrier will take to  
13 implement the obligations contained in the *Order*.<sup>10</sup>

14           9.       On June 30, 2011, ABATC filed its initial draft Compliance Plan outlining its proposed  
15 compliance with the usual FCC conditions for ETCs. The FCC sought comment on the Plan and  
16 ABATC subsequently filed an updated draft Plan on December 2, 2011. ABATC submitted its initial  
17 Compliance Plan to the FCC in order to benefit from the “blanket forbearance” of the own-facilities  
18 requirement used to provide Lifeline services. ABATC submitted its Revised Compliance Plan  
19 (“RCP”) on March 13, 2012, making changes pursuant to the *Lifeline Reform Order* in order to benefit  
20 from the “blanket forbearance” of the own-facilities requirement used to provide Lifeline services.  
21 On April 27, 2012, ABATC filed its final RCP with the FCC, having made several minor revisions to  
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23  
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25 <sup>8</sup> *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC  
26 Docket No. 11-42, FCC 12-11, released February 6, 2012 (“*Lifeline Reform Order*”).

27 <sup>9</sup> *Ibid.*, at paras. 368-381.

28 <sup>10</sup> *See id.* at paras. 373 and 389. Subsequently, the Bureau provided guidance for carriers submitting compliance plans pursuant to the *Lifeline Reform Order*. *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, WC Docket Nos. 09-197 and 11-42, Public Notice, 27 FCC Rcd 2186 (Wireline Comp. Bur. 2012).

the March 13, 2012 filing. On May 25, 2012, the FCC issued a Public Notice<sup>11</sup> approving ABATC's April 27, 2012 RCP.

**REQUIREMENTS FOR DESIGNATION AS AN ETC AND ABATC'S COMPLIANCE WITH THE REQUIREMENTS**

10. Designation as an ETC makes a carrier eligible to receive federal universal service funds. The requirements for designation of ETCs are established in 47 U.S.C. § 214(e)(1), which states:

"A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall throughout the service area for which the designation is received: (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and (B) advertise the availability of such services and the corresponding charges using media of general distribution."

11. In order to be designated as an ETC, a carrier must offer Lifeline service to all qualifying low-income customers within its service area.<sup>12</sup> Lifeline service provides basic telephone service, typically by passing on discounts to monthly telecommunications charges. As a wireless reseller of prepaid wireless service, ABATC is proposing to offer qualified customers a free handset, free customer care calls, free balance inquiries, access to voice mail, caller I.D. and call waiting features at no additional charge, plus the choice of two (2) Lifeline plans or four (4) different prepaid calling plans available to non-Lifeline customers.<sup>13</sup> ABATC also proposes to offer customers the capability of purchasing additional voice minutes and/or text messages.<sup>14</sup>

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<sup>11</sup> See "Wireline Competition Bureau Approves the Compliance Plans of American Broadband & Telecommunications, Budget Prepay, Consumer Cellular, Global Connection, TerraCom and Total Call Mobile", Public Notice from FCC Wireline Competition Bureau, WC Docket Nos. 09-197 and 11-42 (rel. May 25, 2012).

<sup>12</sup> 47 C.F.R. §§ 54.405 and 54.411(a)

<sup>13</sup> See Application, Pages 8 -9 and Response to Staff Data Request STF 1.43. Plan Option 1 offers 250 voice minutes and 250 text messages per month at no charge to the Lifeline customer. Plan Option 2 offers 500 voice minutes and 500 text message for \$10.70 per month to Lifeline customers. In addition, Lifeline eligible customers are allowed to apply the Company's Lifeline discount of \$9.25 to any of the following plans offered to non-Lifeline customers: a 30-day plan of Unlimited Voice/Text and 1 GB Data regularly priced at \$49.95, a 30-day plan of 1500 voice minutes and 1500 text messages regularly priced at \$29.95, a 30-day of 250 voice minutes and 1000 text messages regularly priced at \$19.95 or a 30-day plan of 4000 combined voice minutes and text messages regularly priced at \$34.25.

<sup>14</sup> See Application, Pages 9-10.

12. As indicated above, the FCC granted ABATC forbearance from the own-facilities requirement that it provide service using its own facilities or a combination of its own facilities and resale of another carrier's service and also any criteria related to facilities build out plans. ABATC would be a Lifeline-only ETC, eligible only for Lifeline support and must meet all the other criteria required of ETCs.

*A. Offering the Services Designated For Support*

13. 47 C.F.R. § 54.101, sets forth the services that a carrier must offer in order to receive Federal universal service fund support. The services and ABATC's response to the provision of each service are as follows:

- (a) Voice grade access to the Public Switched Network. ABATC states<sup>15</sup> that it provides voice grade access to the public switched telephone network through the purchase of wholesale CMRS services from T-Mobile USA, and Sprint.
- (b) Local usage. ABATC states<sup>16</sup> it will provide Lifeline customers with minutes of use for local service at no additional charge to customers, as required by the FCC.
- (c) Access to emergency services. "An ETC must provide its customers with access to 911 and E911 emergency services. ABATC states<sup>17</sup> that all of its customers will have access to emergency calling services and that 911 and E911 access will be available from ABATC's handsets even if the account associated with the handset has no minutes remaining.
- (d) Toll Limitation for Qualifying Low-Income Consumers. "ETCs must provide toll limitation services to qualifying low-income customers, unless their Lifeline offering does not distinguish between the pricing of toll and non-toll calls. ABATC's wireless calling plans do not distinguish between non-toll (i.e., local) and toll. ABATC's prepaid plans include a specific number of minutes that cannot be exceeded. Therefore, customers cannot incur any charges for excessive toll calling or be disconnected for non-payment.

14. In its Application, ABATC states<sup>18</sup> that it has the ability to provide all of the supported services and functionalities required in the proposed ETC designated service area to all subscribers taking service under its Lifeline plan through resale of wireless services with its underlying wireless

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<sup>15</sup> Application, Pages 7 and email clarification dated November 12, 2015.

<sup>16</sup> Application, Pages 7-10 and email clarification dated November 12, 2015.

<sup>17</sup> Application, Pages 10-11.

<sup>18</sup> Application, Pages 6-7.



carriers. Based on the above information and explanations, Staff believes that ABATC meets this ETC designation criteria.

*B. Advertising of Supported Services*

15. 47 U.S.C. § 214(e)(1)(B) requires a common carrier designated as an eligible telecommunications carrier to advertise the availability of such services and the corresponding charges using media of general distribution. ABATC states<sup>19</sup> it will advertise the availability of its supported services and the corresponding rates and charges in a manner designed to inform the general public. ABATC advertises in media of general distribution, which includes print, media, web, and kiosks and advertising will occur principally through direct sales, kiosk and table cover marketing campaigns, and web lead generation, with ad words directing potential customers to ABATC's American Assistance website media channels.<sup>20</sup> Advertisements will be in both English and Spanish. ABATC submitted examples of prior relevant advertisements to Staff. In addition, ABATC submitted an example of its English version advertisement in its RCP to the FCC.<sup>21</sup>

16. Based on the information above and ABATC's advertising materials provided to Staff, Staff concludes that ABATC will advertise the availability of its supported services and the corresponding charges using media of general distribution as required by 47 U.S.C. § 214(e)(1)(B). Staff believes that ABATC meets this ETC designation criteria.

*C. Additional ETC Requirements*

17. In addition to the requirements listed above, the FCC adopted, in the *Lifeline Reform Order*, comprehensive reforms to the low-income program to revise and modernize the Lifeline service requirements and implement measures to address fraud, waste, and abuse within the system. Below are the additional requirements and ABATC's response to each requirement.

C.1 A Commitment and Ability to Provide Supported Services

18. In 47 C.F.R. § 54.202(a)(1)(i) and (ii), the FCC required the applicant to:

- (i) Certify that it will comply with the service requirements applicable to the support that it receives; and

<sup>19</sup> Application, Page 12.

<sup>20</sup> Response to Staff Data Request STF 1.32, 1.33 and 1.34.

<sup>21</sup> See Exhibit C of RCP filed with Application.

- (ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Except, a common carrier seeking designation as an eligible telecommunications carrier in order to provide supported services only under subpart E of this part does not need to submit such a five-year plan.<sup>22</sup>

19. ABATC certifies<sup>23</sup> that it will comply with the service requirements applicable to the low-income support it receives as a result of designation as an ETC for the purposes of receiving Lifeline. The requirement directing submissions of a formal network improvement plan under 47 C.F.R. § 54.202(a)(1)(ii) demonstrating how universal service funds will be used to improve coverage, signal strength, or capacity that would not otherwise occur absent the receipt of high-cost support, does not apply to this Application because ABATC is seeking only to provide supported services under subpart E of this part, i.e. Lifeline only, and the FCC waived the facilities-based requirements for ABATC.

20. Based on the above information, Staff believes that ABATC meets this ETC designation criteria.

#### C.2 Remain Functional in Emergency Situations

21. In 47 C.F.R. § 54.202(a)(2), the FCC outlines the requirement that an ETC applicant demonstrate its ability to remain functional in emergency situations. Specifically, “an applicant must demonstrate that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.”<sup>24</sup>

22. To demonstrate its ability to remain functional in emergency situations, ABATC states<sup>25</sup> it will utilize the extensive and well established Sprint and T-Mobile networks and facilities to provide ABATC’s mobile services and it is ABATC’s understanding that the Sprint and T-Mobile

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<sup>22</sup> *Lifeline Reform Order*, ¶ 386.

<sup>23</sup> See Application, Page 13.

<sup>24</sup> *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 05-46* (rel. March 17, 2005) (“*ETC Minimum Requirements Report and Order*”), ¶ 25.

<sup>25</sup> Application, Page 13.

1 networks are capable of managing traffic spikes that may occur during emergency situations and can  
2 reroute traffic in the event of damaged facilities. In addition, ABATC also understands that each  
3 carrier has sufficient back-up power to ensure functionality if its external power supply is unavailable  
4 and that both companies have repeatedly certified to the FCC that their networks function in  
5 emergency situations.<sup>26</sup> Sprint and T-Mobile will provide the same functionality to ABATC and its  
6 customers as these carriers provide to themselves and their own customers. Therefore, through its  
7 underlying carriers, ABATC states it has the ability to remain functional in emergency situations.

8 23. Based on the above information, Staff concludes that ABATC has demonstrated its  
9 ability to remain functional in emergency situations by maintaining a reasonable amount of back-up  
10 power. Staff believes that ABATC meets this ETC designation criteria.

11 C.3 Satisfy Consumer Protection and Service Quality Standards

12 24. In 47 C.F.R. § 54.202(a)(3), the FCC requires an ETC applicant to demonstrate its  
13 commitment to meeting consumer protection and service quality standards in its application.<sup>27</sup> The  
14 sufficiency of other commitments will be considered on a case-by-case basis.

15 25. To demonstrate its ability to satisfy consumer protection and service quality standards,  
16 ABATC states<sup>28</sup> it commits to comply with the Wireless Association's, originally known as the Cellular  
17 Telephone Industries Association's ("CTIA's") Consumer Code to ensure that the Company offers its  
18 subscribers the highest level of protection and quality service.

19 26. Based on the above information, Staff believes that ABATC meets this ETC  
20 designation criteria.

21 C.4 Lifeline-Only ETC Applicants – Financial and Technical Capability

22 27. In 47 C.F.R. § 54.202(a)(4), the FCC requires a Lifeline-only ETC applicant to  
23 demonstrate that it is financially and technically capable of providing the Lifeline service in  
24

25  
26 <sup>26</sup> See, e.g., *Sprint Nextel Corporation Verified Filing in Compliance with 47 C.F. R. § 54.209*, CC Docket No. 96-45, at 6 (filed  
27 Sept. 30, 2011); *In the Matter of Telecommunications Carriers Eligible for Universal Service Support, Petition of T-Mobile USA, Inc. for*  
28 *Designation as a Low-Income Eligible Telecommunications Carrier, et al.*, WC Docket No. 09-197, at 20 (released Aug. 16, 2012).

<sup>27</sup> ETC Minimum Requirements Report and Order, ¶ 28.

<sup>28</sup> Application, Page 14.

1 compliance with subpart E of this part. In the *Lifeline Reform Order*<sup>29</sup> the FCC provides guidance on  
2 specific information to be considered when determining if an applicant meets this requirement:

3 "...Among the relevant considerations for such a showing would be whether the  
4 applicant previously offered services to non-Lifeline customers, how long its has been in  
5 business, whether the applicant intends to rely exclusively on USF distributions to  
6 operate, whether the applicant receives or will receive revenue from other sources, and  
7 whether it has been subject to enforcement action or ETC revocation proceedings in any  
8 state."

9 28. To demonstrate that ABATC is financially and technically capable of providing  
10 Lifeline service, ABATC states<sup>30</sup> its management has more than 50 years of experience in the  
11 telecommunications industry and it receives revenue from a number of sources which are completely  
12 independent from the revenue it will receive in the form of Lifeline reimbursements. ABATC further  
13 states its revenue stream includes income from the sale of non-lifeline prepaid and postpaid  
14 telecommunications services to customers in Illinois, Indiana, Kentucky, Michigan, Ohio, New York,  
15 Pennsylvania and Wisconsin. In addition, ABATC states it has provided non-Lifeline prepaid  
16 domestic telecommunications since 2004 and has a substantial non-Lifeline customer base and  
17 receives revenues from these non-Lifeline retail offerings. Consequently, ABATC states it will not be  
18 relying exclusively on Lifeline reimbursement for its operating revenues. Finally, ABATC states it has  
19 not been subject to ETC enforcement sanctions or revocation proceedings in any state.

20 29. Having reviewed ABATC's financial statements and based on the above information,  
21 Staff believes that ABATC meets this ETC designation criteria.

22 C.5 Lifeline-Only ETC Applicants – Terms and Conditions of Lifeline Service Plans

23 30. In 47 C.F.R. § 54.202(a)(5), the FCC requires an ETC applicant to submit information  
24 describing the terms and conditions of any voice telephony service plans offered to Lifeline  
25 subscribers, including details on the number of minutes provided as part of the plan, additional  
26 charges, if any, for toll calls, and rates for each such plan. To the extent the ETC offers plans to  
27 Lifeline subscribers that are generally available to the public, it may provide summary information

28 <sup>29</sup> See *Lifeline Reform Order*, ¶388.

<sup>30</sup> See Application, Pages 14-15, RCP, Pages 18-19 and Response to Staff Data Request STF 1.10.

1 regarding such plans, such as a link to a public website outlining the terms and conditions of such  
2 plans.

3 31. ABATC provided Staff with its informational tariff<sup>31</sup> in which it describes the calling  
4 plans for Lifeline subscribers, including the number of free minutes in each calling plan, along with  
5 the terms and conditions of Lifeline service as provided by ABATC. Based on the information  
6 contained in ABATC's informational tariff, Staff believes that ABATC meets this ETC designation  
7 criteria.

8 *D. Steps to Limit Fraud, Waste and Abuse of the FUSF*

9 32. In the *Lifeline Reform Order* the FCC adopted various new measures and revised or  
10 eliminated other existing measures in order to limit fraud, waste and abuse of the FUSF. These  
11 measures include establishing uniform eligibility criteria to qualify for Lifeline services, clarifying the  
12 restriction of one Lifeline telephone allowed per household, initial certification and annual re-  
13 certification of consumer eligibility, establishing a national lifeline accountability database to ensure  
14 and enforce the one-per-household requirement, total elimination of toll limitation support for  
15 wireless carriers and a tapered elimination of toll limitation support for landline ETCs, elimination of  
16 the Link Up subsidy except on federally-recognized tribal lands and establishing additional provisions  
17 for Universal Service Administrative Company ("USAC") audits.

18 33. In its Application<sup>32</sup> and RCP, ABATC outlines the steps it will take to limit fraud,  
19 waste and abuse of the FUSF and to comply with all applicable Lifeline requirements and implement  
20 measures to prevent fraud, waste, and abuse.

21 *E. Public Interest Determination*

22 34. Under Section 214 of the Act, the FCC and state commissions must determine that an  
23 ETC designation is consistent with the public interest, convenience and necessity for rural areas. They  
24 also must consider whether an ETC designation serves the public interest consistent with Section 254  
25 of the Act. Congress did not establish specific criteria to be applied under the public interest tests in  
26 Sections 214 or 254. The public interest benefits of a particular ETC designation must be analyzed in

27  
28 <sup>31</sup> Response to Staff Data Request STF 1.43.

<sup>32</sup> See Application, Pages 15-16.

1 a manner that is consistent with the purposes of the Act itself, including the fundamental goals of  
2 preserving and advancing universal service, ensuring the availability of quality telecommunications  
3 services at just, reasonable, and affordable rates, and promoting the deployment of advanced  
4 telecommunications and information services to all regions of the nation, including rural and high-cost  
5 areas.<sup>33</sup> Accordingly, before designating a carrier as an ETC, the Commission must make an  
6 affirmative determination that such designation is in the public interest, regardless of whether the  
7 applicant seeks designation in an area served by a rural or non-rural carrier.

8 35. ABATC states that by designating it as a wireless ETC in Arizona, it will serve the  
9 public interest and the needs of low-income customers in Arizona by increasing customer choice in  
10 the areas it serves. The public interest benefits associated with ABATC's wireless service include  
11 larger local calling areas (as compared to traditional wireline carriers), the convenience and personal  
12 security afforded by mobile telephone service, the opportunity for customers to receive a high-value  
13 wireless plan and emergency services in accordance with FCC Rules. Additionally, ETC status will  
14 promote universal service by allowing ABATC to offer wireless service to many low-income  
15 customers who may not be able to otherwise have service. ABATC's Lifeline calling plans are  
16 designed to provide service to Lifeline consumers who, due to credit or deposit requirements, may not  
17 be able to obtain telephone service from more traditional wireline and wireless service providers.

18 *F. Designated Service Area*

19 36. The Commission must establish a geographic area for the purpose of determining  
20 universal service obligations and support mechanisms for each designated ETC. *See* 47 U.S.C. §  
21 214(e)(2); 47 C.F.R. § 54.201(b). ABATC requests that the Commission designate it as an ETC for  
22 service areas in Arizona. Through resale of wireless service provided by T-Mobile and Sprint in  
23 Arizona, ABATC will provide Lifeline service in many wire centers in the State of Arizona.

24 37. There are a number of wire centers that encompass both tribal lands and non-tribal  
25 lands. Some of the tribal lands are served by tribally-owned telephone companies and some of the  
26 tribal lands are served by non-tribally owned telephone companies. For those wire centers that  
27

28 <sup>33</sup> *ETC Minimum Requirements Report and Order*, ¶ 40.

1 encompass tribal lands, ABATC requested to serve the non-tribal areas of each wire center and to  
2 serve tribal lands within the service areas of Commission regulated telephone companies and  
3 cooperatives only after receiving any and all necessary licenses or other forms of approval that might  
4 be required by any Tribe and filing a copy of such licenses or other form of approval with the  
5 Commission, with a copy to ALECA's undersigned counsel. Attachment 1 of the Recommended  
6 Opinion and Order contains the list of wire centers to be served by ABATC.

7 **INTERVENOR**

8 *A. Arizona Local Exchange Carriers Association*

9 38. The ALECA is an association of telephone companies and member-owned  
10 cooperatives providing local exchange telecommunications services to customers in rural, high cost  
11 areas of Arizona. All of ALECA's members are "rural telephone companies" as defined by the Act.  
12 ALECA represents telephone companies and cooperatives that are regulated by the Commission as  
13 well as Tribally-owned telephone companies which are not regulated by the Commission.

14 *B. Joint Stipulation*

15 39. On March 16, 2015, ALECA and ABATC filed a Stipulation in the docket. In the  
16 Stipulation, to address the potential concerns expressed by ALECA, ABATC agreed not to provide  
17 Lifeline service to eligible residents residing on Federally-recognized Tribal Lands in Arizona until  
18 ABATC obtained any and all necessary licenses or other forms of approval that might be required by  
19 any Tribe and file a copy of such licenses or other form of approval with the Commission in this  
20 docket and a copy to ALECA's counsel. In addition, ABATC agreed that its Lifeline enrollment  
21 application for Arizona will require an applicant to provide a street address and include a provision  
22 that requires an applicant to self-certify under penalty of perjury that they do not reside on Federally-  
23 Recognized Tribal Lands or to identify the Federally-Recognized Tribe on the lands of which he or  
24 she resides.

25 40. Staff understands that the only Federally-Recognized Tribal Lands that are included in  
26 the Joint Stipulation are those served by Commission-regulated telephone companies and cooperatives  
27  
28

1 and for which ABATC has obtained any and all necessary licenses or other forms of approval that  
2 might be required by any Tribe.<sup>34</sup>

3 **STAFF RECOMMENDATIONS**

4 41. In addition to the conditions set forth by the FCC, Staff recommends ABATC's  
5 Application for designation as an ETC be granted subject to the following conditions:

- 6 a. ABATC shall file a tariff, in this docket through Docket Control, setting forth  
7 the rates, terms and conditions for its Lifeline service within thirty (30) days of  
8 a Commission Order in this matter;
- 9 b. ABATC shall notify the Commission of any future changes, through Docket  
10 Control, to its rates, terms and/or conditions regarding its Lifeline offerings  
11 and file such changes in its tariff and amend its tariff in compliance with A.R.S.  
12 § 40-367;
- 13 c. ABATC shall make available Lifeline services to qualifying low-income  
14 applicants in its ETC service area no later than ninety (90) days after a  
15 Commission decision in this matter and shall concurrently notify the  
16 Commission, by making a filing in Docket Control, in this docket, of the  
17 commencement date for such services;
- 18 d. ABATC shall apprise the Commission of any customer complaints that may  
19 arise from its ETC service offerings by making a filing in Docket Control in  
20 this docket;
- 21 e. ABATC shall provide a regulatory contact to the Commission by making a  
22 filing in Docket Control in this docket within thirty (30) days of a Commission  
23 decision in this matter;
- 24 f. In the event that ABATC requests to relinquish its ETC status and no longer  
25 provide Lifeline services, it must provide notice to both the Commission and  
26 its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107  
27 and any other requirements under Federal law;
- 28 g. ABATC shall submit in Docket Control an annual report by April 15th of each  
year, beginning April 15, 2014, that contains its total number of Lifeline  
subscribers and the total amount of FUSF support received as of December 31  
of the previous year and include an affidavit stating that the Lifeline discounts  
or the equivalent are equal to the amount of total FUSF support received per  
line. The annual filing shall be submitted as a compliance item in this docket;
- h. In the event of a Transfer of Control that involves ABATC, a new ETC  
petition shall be filed with the Commission. This will ensure ETCs undergoing

<sup>34</sup> In order to provide Lifeline services on Federally-Recognized Tribal Lands served by Tribally-owned telephone companies, ABATC would need to petition the FCC for ETC designation in order to receive FUSF reimbursement.



1 reorganization remain financially viable and technically able to provide the  
2 supported services throughout the designated service areas as originally  
approved by the Commission;

3 i. ABATC shall not expand its Lifeline service beyond the designated service area  
4 specified in this Application without acquiring ETC designation from the  
Commission to serve the additional area; and

5 j. ABATC shall not provide Lifeline service to eligible residents residing on  
6 Federally-Recognized Tribal Lands in Arizona, served by Commission  
7 regulated telephone companies and cooperatives, until after ABATC has  
8 obtained any and all necessary licenses or other forms of approval that might  
be required by any Tribe and filed a copy of such licenses or other form of  
9 approval with the Commission in this docket, with a copy to ALECA's  
counsel.

#### 10 CONCLUSIONS OF LAW

11 1. American Broadband and Telecommunications Company is a telecommunications  
12 company as defined in A.R.S. § 40-201(46) and is a "telecommunications carrier" as defined in 47  
13 U.S.C. § 153(51). ABATC is also a reseller of Commercial Mobile Radio Service as defined in 47  
14 U.S.C. § 20.3 and A.A.C. R14-2-1201(8).

15 2. The Commission has jurisdiction over the subject matter of the Application.

16 3. Under 47 U.S.C. § 214(e)(1), a common carrier that is designated as an Eligible  
17 Telecommunications Carrier must, throughout its designated service area, offer the services that are  
18 supported by the Federal Universal Service Support mechanisms either by using its own facilities or a  
19 combination of its own facilities and resale of another carrier's services. The carrier must also  
20 advertise the availability of such services and the rates for the services using media of general  
21 distribution.

22 4. Under 47 U.S.C. § 214(e)(2), the Commission must establish the geographic area for  
23 the purposes of determining universal service obligations and support mechanisms. ABATC's  
24 Application applies to the service area consisting of each rate center as listed in Attachment 1.

25 5. ABATC meets the requirements for ETC designation under 47 U.S.C. § 214 and  
26 C.F.R. § 54.201 *et seq.*, subject to ABATC's compliance with the conditions set forth in Finding of Fact  
27 No. 41 herein.

28 ...

ORDER

IT IS THEREFORE ORDERED that the Application of American Broadband and Telecommunications Company for designation as an Eligible Telecommunications Carrier pursuant to U.S.C. § 214(e)(1) for the purpose of receiving federal universal service support in Arizona, for the designated service area set forth in Attachment 1 attached hereto and incorporated herein by reference, be and hereby is approved, subject to American Broadband and Telecommunications Company's compliance with the conditions set forth in Finding of Fact No. 41 above.

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1 IT IS FURTHER ORDERED that if American Broadband and Telecommunications  
2 Company does not comply with the requirements of Finding of Fact No. 41, its designation as an  
3 ETC may be revoked after due process.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5  
6 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

7  
8 \_\_\_\_\_  
CHAIRMAN

COMMISSIONER

9  
10  
11 \_\_\_\_\_  
COMMISSIONER

COMMISSIONER

COMMISSIONER

12  
13 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
14 Director of the Arizona Corporation Commission, have  
15 hereunto, set my hand and caused the official seal of this  
16 Commission to be affixed at the Capitol, in the City of  
17 Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

18 \_\_\_\_\_  
JODI JERICH  
19 EXECUTIVE DIRECTOR

20 DISSENT: \_\_\_\_\_

21  
22 DISSENT: \_\_\_\_\_

23 TMB:LLM:red/MAS  
24  
25  
26  
27  
28

1 SERVICE LIST FOR: American Broadband and Telecommunications Company  
2 DOCKET NO. T-20924A-15-0068

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13 American Broadband and Telecommunications Company  
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15 Toledo, Ohio 43604

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17 Craig A. Marks, P. C.  
18 10645 N. Tatum Blvd., Suite 200-676  
19 Phoenix, Arizona 85028

20 Mr. Thomas M. Broderick  
21 Director, Utilities Division  
22 Arizona Corporation Commission  
23 1200 West Washington Street  
24 Phoenix, Arizona 85007

25 Ms. Janice M. Alward  
26 Chief Counsel, Legal Division  
27 Arizona Corporation Commission  
28 1200 West Washington Street  
Phoenix, Arizona 85007

Mr. Dwight Nodes  
Chief Administrative Law Judge, Hearing Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

CARRIER NAME	CLLI	SWITCH NAME
QWEST CORPORATION	AGFIAZSRDS0	SUNRISE
QWEST CORPORATION	AZCYAZ03RS1	ARIZONA CITY
QWEST CORPORATION	BCKYAZMADS0	BUCKEYE
QWEST CORPORATION	BISBAZMARS1	BISBEE
QWEST CORPORATION	BLCNAZMARS1	BLACK CANYON
QWEST CORPORATION	BNSNAZMADS0	BENSON
QWEST CORPORATION	BNSNAZSDDS0	BENSON SAINT DAVID
QWEST CORPORATION	BRDSAZMADS0	BEARDSLEY
QWEST CORPORATION	CHNDAZMADS0	CHANDLER MAIN
QWEST CORPORATION	CHNDAZSODS0	CHANDLER SOUTH
QWEST CORPORATION	CHNDAZWEDS0	CHANDLER WEST
QWEST CORPORATION	CHVYAZMADS0	CHINO VALLEY
QWEST CORPORATION	CLDGAZMARS1	COOLIDGE
QWEST CORPORATION	CMVRAZMARS1	CAMP VERDE
QWEST CORPORATION	CMVRAZRRRS1	RIMROCK
QWEST CORPORATION	CRCYAZMARS1	CIRCLE CITY
QWEST CORPORATION	CRNDAZMADS1	CORONADO
QWEST CORPORATION	CSGRAZMADS0	CASA GRANDE
QWEST CORPORATION	CTWDAZMADS0	COTTONWOOD-MAIN
QWEST CORPORATION	CTWDAZSORS1	COTTONWOOD-SOUTH
QWEST CORPORATION	CVCKAZMADS0	CAVE CREEK
QWEST CORPORATION	DDVLAZNMRS1	DUDLEYVILLE
QWEST CORPORATION	DGLSAZMARS1	DOUGLAS
QWEST CORPORATION	DRVYAZNODS0	DEER VALLEY NORTH
QWEST CORPORATION	ELOYAZ01RS1	ELOY
QWEST CORPORATION	FLGSAZEADS0	FLAGSTAFF EAST
QWEST CORPORATION	FLGSAZMADS0	FLAGSTAFF MAIN
QWEST CORPORATION	FLGSAZSORS1	FLAGSTAFF SOUTH
QWEST CORPORATION	FLRNAZMARS1	FLORENCE
QWEST CORPORATION	FTMDAZMADS0	FORT MCDOWELL
QWEST CORPORATION	FTMDAZNORS1	RIO VERDE
QWEST CORPORATION	GDYRAZCWDS0	COLDWATER
QWEST CORPORATION	GLBNAZMARS1	GILA BEND
QWEST CORPORATION	GLDLAZMADS0	GLENDALE MAIN
QWEST CORPORATION	GLOBAZMARS1	GLOBE
QWEST CORPORATION	GNVYAZMADS0	GREEN VALLEY
QWEST CORPORATION	GRCNAZMARS1	GRAND CANYON
QWEST CORPORATION	HGLYAZMADS1	HIGLEY
QWEST CORPORATION	HGLYAZQCDS2	QUEEN CREEK
QWEST CORPORATION	HMBLAZMARS1	HUMBOLDT
QWEST CORPORATION	HYDNAZMARS1	HAYDEN
QWEST CORPORATION	JSCYAZMARS1	JOSEPH CITY
QWEST CORPORATION	KRNYAZMARS1	KEARNY
QWEST CORPORATION	LTPKAZMADS0	LITCHFIELD PARK
QWEST CORPORATION	MARNAZ02RS1	MARANA WEST
QWEST CORPORATION	MARNAZMARS1	MARANA
QWEST CORPORATION	MAYRAZMARS1	MAYER
QWEST CORPORATION	MESAAZGIDS0	GILBERT
QWEST CORPORATION	MESAAZMADS0	MESA
QWEST CORPORATION	MIAMAZMARS1	MIAMI
QWEST CORPORATION	MMTHAZMARS1	MAMMOTH
QWEST CORPORATION	MRCPAZMADS0	MARICOPA
QWEST CORPORATION	MSPKAZMADS0	MUNDS PARK
QWEST CORPORATION	NGLSAZMARS1	NOGALES

CARRIER NAME	CLLI	SWITCH NAME
QWEST CORPORATION	NGLSAZMWDS0	NOGALES MIDWAY
QWEST CORPORATION	NWRVAZMADS0	NEW RIVER
QWEST CORPORATION	ORCLAZMARS1	ORACLE
QWEST CORPORATION	PAGEAZMADS0	PAGE
QWEST CORPORATION	PHNXAZ81DS0	PHOENIX-FOOTHILLS
QWEST CORPORATION	PHNXAZBWDS0	PHOENIX-BETHANY WEST
QWEST CORPORATION	PHNXAZCADS0	PHOENIX-CACTUS
QWEST CORPORATION	PHNXAZEADS0	PHOENIX-EAST
QWEST CORPORATION	PHNXAZGRDS0	PHOENIX-GREENWAY
QWEST CORPORATION	PHNXAZLVDS0	PHOENIX-LAVEEN
QWEST CORPORATION	PHNXAZMADS1	PHOENIX-MAIN
QWEST CORPORATION	PHNXAZMRDS0	PHOENIX-MID RIVERS
QWEST CORPORATION	PHNXAZMYDS0	PHNX-MARYVALE
QWEST CORPORATION	PHNXAZNEDS0	PHOENIX-NORTHEAST
QWEST CORPORATION	PHNXAZNODS1	PHOENIX-NORTH
QWEST CORPORATION	PHNXAZNWDS0	PHOENIX-NORTHWEST
QWEST CORPORATION	PHNXAZPPDS0	PHOENIX-PECOS
QWEST CORPORATION	PHNXAZPRDS0	PHNX PEORIA
QWEST CORPORATION	PHNXAZSEDS0	PHNX SOUTHEAST
QWEST CORPORATION	PHNXAZWEDS0	PHOENIX WEST
QWEST CORPORATION	PIMAAZMARS1	PIMA
QWEST CORPORATION	PINEAZMARS1	PINE
QWEST CORPORATION	PLMNAZMARS1	PALOMINAS
QWEST CORPORATION	PRSCAZEARS2	PRESCOTT EAST
QWEST CORPORATION	PRSCAZMADS0	PRESCOTT MAIN
QWEST CORPORATION	PRVYAZPPDS0	PINNACLE PEAK
QWEST CORPORATION	PTGNAZELRS1	PATAGONIA ELGIN
QWEST CORPORATION	PTGNAZMARS1	PATAGONIA
QWEST CORPORATION	PYSNAZMADS0	PAYSON
QWEST CORPORATION	SCDLAZMADS0	SCOTTSDALE MAIN
QWEST CORPORATION	SCDLAZSHDS0	SHEA
QWEST CORPORATION	SCDLAZTHDS0	THUNDERBIRD
QWEST CORPORATION	SEDNAZMADS0	SEDONA
QWEST CORPORATION	SEDNAZSORS3	SEDONA SOUTH
QWEST CORPORATION	SFFRAZMADS0	SAFFORD
QWEST CORPORATION	SMTNAZMARS1	SOMERTON
QWEST CORPORATION	SNMNAZMADS0	SAN MANUEL
QWEST CORPORATION	SPRRAZMARS1	SUPERIOR
QWEST CORPORATION	SPRSAZEADS0	SUPERSTITION EAST
QWEST CORPORATION	SPRSAZMADS0	SUPERSTITION MAIN
QWEST CORPORATION	SPRSAZWEDS0	SUPERSTITION WEST
QWEST CORPORATION	SRVSAZMADS0	SIERRA VISTA MAIN
QWEST CORPORATION	SRVSAZNORS1	SIERRA VISTA NO
QWEST CORPORATION	SRVSAZSODS0	SIERRA VISTA SO
QWEST CORPORATION	TCSNAZCADS0	CATALINA
QWEST CORPORATION	TCSNAZCODS0	CORTARO
QWEST CORPORATION	TCSNAZCRDS0	TCSN CRAYCROFT
QWEST CORPORATION	TCSNAZEADS0	TUCSON EAST
QWEST CORPORATION	TCSNAZFWDS0	FLOWING WELLS
QWEST CORPORATION	TCSNAZMADS1	TUCSON MAIN
QWEST CORPORATION	TCSNAZMLRS2	MOUNT LEMMON
QWEST CORPORATION	TCSNAZNODS0	TUCSON NORTH
QWEST CORPORATION	TCSNAZRNDSD0	RINCON
QWEST CORPORATION	TCSNAZSEDS0	TUCSON SOUTHEAST

CARRIER NAME	CLLI	SWITCH NAME
QWEST CORPORATION	TCSNAZSODS0	TCSN SOUTH
QWEST CORPORATION	TCSNAZSWDS0	TUCSON SOUTHWEST
QWEST CORPORATION	TCSNAZTVDS0	TANQUE VERDE
QWEST CORPORATION	TCSNAZWERS1	TUCSON WEST
QWEST CORPORATION	TEMPAZMADS0	TEMPE MAIN
QWEST CORPORATION	TEMPAZMCDS0	MCCLINTOCK
QWEST CORPORATION	TLSNAZMADS0	TOLLESON
QWEST CORPORATION	TMBSAZMARS1	TOMBSTONE
QWEST CORPORATION	TNCKAZMARS1	TONTO CREEK
QWEST CORPORATION	TUBCAZMARS1	TUBAC
QWEST CORPORATION	VAILAZNORS1	VAIL NORTH
QWEST CORPORATION	WCBGAZMARS1	WICKENBURG
QWEST CORPORATION	WHTKAZMARS2	WHITE TANKS
QWEST CORPORATION	WHTLAZMADS0	WHITLOW
QWEST CORPORATION	WLCXAZMARS1	WILLCOX
QWEST CORPORATION	WLMSAZMARS1	WILLIAMS
QWEST CORPORATION	WLTNAZMARS1	WELLTON
QWEST CORPORATION	WNBGAZOIRS1	WINTERSBURG
QWEST CORPORATION	WNSLAZMADS1	WINSLOW
QWEST CORPORATION	YRNLAZMARS1	YARNELL
QWEST CORPORATION	YUMAAZFTDS1	YUMA FORTUNA
QWEST CORPORATION	YUMAAZMADS0	YUMA
QWEST CORPORATION	YUMAAZSEDS0	YUMA SOUTHEAST